

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. Civil Writ Petition No.3672/07
Anil Kumar & Anr.
Vs.
Smt. Godawari Chelani & Ors.

24.5.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri Nazimuddin Siddiqui for petitioner.
Shri Shailesh Prakash for respondents.

Heard learned counsel for the parties.

The defendant-petitioners who are tenants in the premises owned by the plaintiff non-petitioners no. 1 to 3 have filed this writ petition against the order dated 24.4.2007 whereby their application filed under Order 6 Rule 17 CPC seeking amendment in the written statement was rejected. The defendants

wanted the subsequent developments to be incorporated regarding the fact that the roof of the first floor of the building which was the tenanted premises had been sold to him by the landlord by registered sale deed on 27.2.1996 and on that account the amount of rent which was originally agreed to be paid at the rate of Rs.600/- per month should be proportionately reduced to the extent of reduction in the utility of the tenanted premises by at least a sum of Rs.200/-.

Learned counsel for the petitioners argued that the learned trial court failed to appreciate that subsequent developments of the purchase of the roof top of the tenanted premises had an important bearing on the controversy involved in the matter in as

much as this was a factor which would definitely necessitate reduction of the rent agreed upon between the parties and therefore the desired amendments have wrongly been denied.

Learned counsel for the respondents however opposed the writ petition and argued that the petitioner has been making repeated application, one after the other, with the sheer purpose of delaying the proceedings in the trial court. While supporting the impugned order, the learned counsel submitted that the trial court has passed a reasoned and detailed order in refusing to permit the amendments. He therefore prayed that the writ petition be dismissed.

Having heard the learned counsel for the parties and gone through the

material on record, I find that the learned trial court has made elaborate discussion while refusing to permit the desired amendments. The learned trial court reproduced the relevant provision of the sale deed pursuant to which the roof top of the first floor was sold to the petitioner by the respondents and found that this would have no effect on usability of the tenanted premises and the amendment prayed for was not in any way necessary so as to facilitate effective adjudication of the dispute between the parties.

On perusal of the reasons given by the trial court, I find that the trial court has not committed any legal infirmity in refusing to permit the amendments in the pleadings of the

written statement because the nature of amendments which have been prayed for would indeed not at all be necessary for deciding the controversy in the matter and would rather delay the proceedings.

In the facts of the case, the petition having no substance is dismissed accordingly.

(Mohammad Rafiq), J.

Rs/-